



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB1985

Introduced 2/26/2007, by Rep. Frank J. Mautino

SYNOPSIS AS INTRODUCED:

35 ILCS 120/2a	from Ch. 120, par. 441a
35 ILCS 130/4	from Ch. 120, par. 453.4
35 ILCS 135/4	from Ch. 120, par. 453.34
235 ILCS 5/8-2	from Ch. 43, par. 159

Amends the Retailers' Occupation Tax Act, the Cigarette Tax Act, the Cigarette Use Tax Act, and the Liquor Control Act of 1934. Authorizes the Department of Revenue to waive bond requirements for certain licensees under those Acts if the Department determines that the costs of administering and enforcing the bond requirements exceed the amount likely to be recovered from the bonds. Effective immediately.

LRB095 08506 BDD 28687 b

FISCAL NOTE ACT
MAY APPLY

1 AN ACT concerning revenue.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Retailers' Occupation Tax Act is amended by
5 changing Section 2a as follows:

6 (35 ILCS 120/2a) (from Ch. 120, par. 441a)

7 Sec. 2a. It is unlawful for any person to engage in the
8 business of selling tangible personal property at retail in
9 this State without a certificate of registration from the
10 Department. Application for a certificate of registration
11 shall be made to the Department upon forms furnished by it.
12 Each such application shall be signed and verified and shall
13 state: (1) the name and social security number of the
14 applicant; (2) the address of his principal place of business;
15 (3) the address of the principal place of business from which
16 he engages in the business of selling tangible personal
17 property at retail in this State and the addresses of all other
18 places of business, if any (enumerating such addresses, if any,
19 in a separate list attached to and made a part of the
20 application), from which he engages in the business of selling
21 tangible personal property at retail in this State; (4) the
22 name and address of the person or persons who will be
23 responsible for filing returns and payment of taxes due under

1 this Act; (5) in the case of a corporation, the name, title,
2 and social security number of each corporate officer; (6) in
3 the case of a limited liability company, the name, social
4 security number, and FEIN number of each manager and member;
5 and (7) such other information as the Department may reasonably
6 require. The application shall contain an acceptance of
7 responsibility signed by the person or persons who will be
8 responsible for filing returns and payment of the taxes due
9 under this Act. If the applicant will sell tangible personal
10 property at retail through vending machines, his application to
11 register shall indicate the number of vending machines to be so
12 operated; and thereafter, he shall notify the Department by
13 January 31 of the number of vending machines which such person
14 was using in his business of selling tangible personal property
15 at retail on the preceding December 31.

16 The Department may deny a certificate of registration to
17 any applicant if the owner, any partner, any manager or member
18 of a limited liability company, or a corporate officer of the
19 applicant, is or has been the owner, a partner, a manager or
20 member of a limited liability company, or a corporate officer,
21 of another retailer that is in default for moneys due under
22 this Act.

23 The Department may require every ~~Every~~ applicant for a
24 certificate of registration hereunder shall, at the time of
25 filing such application, furnish a bond from a surety company
26 authorized to do business in the State of Illinois, or an

1 irrevocable bank letter of credit or a bond signed by 2
2 personal sureties who have filed, with the Department, sworn
3 statements disclosing net assets equal to at least 3 times the
4 amount of the bond to be required of such applicant, or a bond
5 secured by an assignment of a bank account or certificate of
6 deposit, stocks or bonds, conditioned upon the applicant paying
7 to the State of Illinois all moneys becoming due under this Act
8 and under any other State tax law or municipal or county tax
9 ordinance or resolution under which the certificate of
10 registration that is issued to the applicant under this Act
11 will permit the applicant to engage in business without
12 registering separately under such other law, ordinance or
13 resolution. In making a determination as to whether to require
14 a bond or other security and ~~The Department shall fix~~ the
15 amount of such security in each case, the Department shall take
16 ~~taking~~ into consideration the amount of money expected to
17 become due from the applicant under this Act and under any
18 other State tax law or municipal or county tax ordinance or
19 resolution under which the certificate of registration that is
20 issued to the applicant under this Act will permit the
21 applicant to engage in business without registering separately
22 under such other law, ordinance or resolution. The amount of
23 security required by the Department shall be such as, in its
24 opinion, will protect the State of Illinois against failure to
25 pay the amount which may become due from the applicant under
26 this Act and under any other State tax law or municipal or

1 county tax ordinance or resolution under which the certificate
2 of registration that is issued to the applicant under this Act
3 will permit the applicant to engage in business without
4 registering separately under such other law, ordinance or
5 resolution, but the amount of the security required by the
6 Department shall not exceed three times the amount of the
7 applicant's average monthly tax liability, or \$50,000.00,
8 whichever amount is lower. The Department may waive the bond or
9 other security requirement if it determines that the
10 administrative costs to the State associated with
11 administering and enforcing the bond or other security
12 provisions of this Section exceed the amount that is likely to
13 be recovered from the bonds or other security.

14 No certificate of registration under this Act shall be
15 issued by the Department until the applicant provides the
16 Department with satisfactory security, if required, as herein
17 provided for.

18 Upon receipt of the application for certificate of
19 registration in proper form, and upon approval by the
20 Department of the security furnished by the applicant or waiver
21 of that requirement, the Department shall issue to such
22 applicant a certificate of registration which shall permit the
23 person to whom it is issued to engage in the business of
24 selling tangible personal property at retail in this State. The
25 certificate of registration shall be conspicuously displayed
26 at the place of business which the person so registered states

1 in his application to be the principal place of business from
2 which he engages in the business of selling tangible personal
3 property at retail in this State.

4 No certificate of registration issued to a taxpayer who
5 files returns required by this Act on a monthly basis shall be
6 valid after the expiration of 5 years from the date of its
7 issuance or last renewal. The expiration date of a
8 sub-certificate of registration shall be that of the
9 certificate of registration to which the sub-certificate
10 relates. A certificate of registration shall automatically be
11 renewed, subject to revocation as provided by this Act, for an
12 additional 5 years from the date of its expiration unless
13 otherwise notified by the Department as provided by this
14 paragraph. Where a taxpayer to whom a certificate of
15 registration is issued under this Act is in default to the
16 State of Illinois for delinquent returns or for moneys due
17 under this Act or any other State tax law or municipal or
18 county ordinance administered or enforced by the Department,
19 the Department shall, not less than 120 days before the
20 expiration date of such certificate of registration, give
21 notice to the taxpayer to whom the certificate was issued of
22 the account period of the delinquent returns, the amount of
23 tax, penalty and interest due and owing from the taxpayer, and
24 that the certificate of registration shall not be automatically
25 renewed upon its expiration date unless the taxpayer, on or
26 before the date of expiration, has filed and paid the

1 delinquent returns or paid the defaulted amount in full. A
2 taxpayer to whom such a notice is issued shall be deemed an
3 applicant for renewal. The Department shall promulgate
4 regulations establishing procedures for taxpayers who file
5 returns on a monthly basis but desire and qualify to change to
6 a quarterly or yearly filing basis and will no longer be
7 subject to renewal under this Section, and for taxpayers who
8 file returns on a yearly or quarterly basis but who desire or
9 are required to change to a monthly filing basis and will be
10 subject to renewal under this Section.

11 The Department may in its discretion approve renewal by an
12 applicant who is in default if, at the time of application for
13 renewal, the applicant files all of the delinquent returns or
14 pays to the Department such percentage of the defaulted amount
15 as may be determined by the Department and agrees in writing to
16 waive all limitations upon the Department for collection of the
17 remaining defaulted amount to the Department over a period not
18 to exceed 5 years from the date of renewal of the certificate;
19 however, no renewal application submitted by an applicant who
20 is in default shall be approved if the immediately preceding
21 renewal by the applicant was conditioned upon the installment
22 payment agreement described in this Section. The payment
23 agreement herein provided for shall be in addition to and not
24 in lieu of the security required by this Section of a taxpayer
25 who is no longer considered a prior continuous compliance
26 taxpayer. The execution of the payment agreement as provided in

1 this Act shall not toll the accrual of interest at the
2 statutory rate.

3 A certificate of registration issued under this Act more
4 than 5 years before the effective date of this amendatory Act
5 of 1989 shall expire and be subject to the renewal provisions
6 of this Section on the next anniversary of the date of issuance
7 of such certificate which occurs more than 6 months after the
8 effective date of this amendatory Act of 1989. A certificate of
9 registration issued less than 5 years before the effective date
10 of this amendatory Act of 1989 shall expire and be subject to
11 the renewal provisions of this Section on the 5th anniversary
12 of the issuance of the certificate.

13 If the person so registered states that he operates other
14 places of business from which he engages in the business of
15 selling tangible personal property at retail in this State, the
16 Department shall furnish him with a sub-certificate of
17 registration for each such place of business, and the applicant
18 shall display the appropriate sub-certificate of registration
19 at each such place of business. All sub-certificates of
20 registration shall bear the same registration number as that
21 appearing upon the certificate of registration to which such
22 sub-certificates relate.

23 If the applicant will sell tangible personal property at
24 retail through vending machines, the Department shall furnish
25 him with a sub-certificate of registration for each such
26 vending machine, and the applicant shall display the

1 appropriate sub-certificate of registration on each such
2 vending machine by attaching the sub-certificate of
3 registration to a conspicuous part of such vending machine.

4 Where the same person engages in 2 or more businesses of
5 selling tangible personal property at retail in this State,
6 which businesses are substantially different in character or
7 engaged in under different trade names or engaged in under
8 other substantially dissimilar circumstances (so that it is
9 more practicable, from an accounting, auditing or bookkeeping
10 standpoint, for such businesses to be separately registered),
11 the Department may require or permit such person (subject to
12 the same requirements concerning the furnishing of security as
13 those that are provided for hereinbefore in this Section as to
14 each application for a certificate of registration) to apply
15 for and obtain a separate certificate of registration for each
16 such business or for any of such businesses, under a single
17 certificate of registration supplemented by related
18 sub-certificates of registration.

19 Any person who is registered under the "Retailers'
20 Occupation Tax Act" as of March 8, 1963, and who, during the
21 3-year period immediately prior to March 8, 1963, or during a
22 continuous 3-year period part of which passed immediately
23 before and the remainder of which passes immediately after
24 March 8, 1963, has been so registered continuously and who is
25 determined by the Department not to have been either delinquent
26 or deficient in the payment of tax liability during that period

1 under this Act or under any other State tax law or municipal or
2 county tax ordinance or resolution under which the certificate
3 of registration that is issued to the registrant under this Act
4 will permit the registrant to engage in business without
5 registering separately under such other law, ordinance or
6 resolution, shall be considered to be a Prior Continuous
7 Compliance taxpayer. Also any taxpayer who has, as verified by
8 the Department, faithfully and continuously complied with the
9 condition of his bond or other security under the provisions of
10 this Act for a period of 3 consecutive years shall be
11 considered to be a Prior Continuous Compliance taxpayer.

12 Every Prior Continuous Compliance taxpayer shall be exempt
13 from all requirements under this Act concerning the furnishing
14 of security as a condition precedent to his being authorized to
15 engage in the business of selling tangible personal property at
16 retail in this State. This exemption shall continue for each
17 such taxpayer until such time as he may be determined by the
18 Department to be delinquent in the filing of any returns, or is
19 determined by the Department (either through the Department's
20 issuance of a final assessment which has become final under the
21 Act, or by the taxpayer's filing of a return which admits tax
22 that is not paid to be due) to be delinquent or deficient in
23 the paying of any tax under this Act or under any other State
24 tax law or municipal or county tax ordinance or resolution
25 under which the certificate of registration that is issued to
26 the registrant under this Act will permit the registrant to

1 engage in business without registering separately under such
2 other law, ordinance or resolution, at which time that taxpayer
3 shall become subject to all the financial responsibility
4 requirements of this Act and, as a condition of being allowed
5 to continue to engage in the business of selling tangible
6 personal property at retail, may ~~shall~~ be required to post bond
7 or other acceptable security with the Department covering
8 liability which such taxpayer may thereafter incur. Any
9 taxpayer who fails to pay an admitted or established liability
10 under this Act may also be required to post bond or other
11 acceptable security with this Department guaranteeing the
12 payment of such admitted or established liability.

13 No certificate of registration shall be issued to any
14 person who is in default to the State of Illinois for moneys
15 due under this Act or under any other State tax law or
16 municipal or county tax ordinance or resolution under which the
17 certificate of registration that is issued to the applicant
18 under this Act will permit the applicant to engage in business
19 without registering separately under such other law, ordinance
20 or resolution.

21 Any person aggrieved by any decision of the Department
22 under this Section may, within 20 days after notice of such
23 decision, protest and request a hearing, whereupon the
24 Department shall give notice to such person of the time and
25 place fixed for such hearing and shall hold a hearing in
26 conformity with the provisions of this Act and then issue its

1 final administrative decision in the matter to such person. In
2 the absence of such a protest within 20 days, the Department's
3 decision shall become final without any further determination
4 being made or notice given.

5 With respect to security other than bonds (upon which the
6 Department may sue in the event of a forfeiture), if the
7 taxpayer fails to pay, when due, any amount whose payment such
8 security guarantees, the Department shall, after such
9 liability is admitted by the taxpayer or established by the
10 Department through the issuance of a final assessment that has
11 become final under the law, convert the security which that
12 taxpayer has furnished into money for the State, after first
13 giving the taxpayer at least 10 days' written notice, by
14 registered or certified mail, to pay the liability or forfeit
15 such security to the Department. If the security consists of
16 stocks or bonds or other securities which are listed on a
17 public exchange, the Department shall sell such securities
18 through such public exchange. If the security consists of an
19 irrevocable bank letter of credit, the Department shall convert
20 the security in the manner provided for in the Uniform
21 Commercial Code. If the security consists of a bank certificate
22 of deposit, the Department shall convert the security into
23 money by demanding and collecting the amount of such bank
24 certificate of deposit from the bank which issued such
25 certificate. If the security consists of a type of stocks or
26 other securities which are not listed on a public exchange, the

1 Department shall sell such security to the highest and best
2 bidder after giving at least 10 days' notice of the date, time
3 and place of the intended sale by publication in the "State
4 Official Newspaper". If the Department realizes more than the
5 amount of such liability from the security, plus the expenses
6 incurred by the Department in converting the security into
7 money, the Department shall pay such excess to the taxpayer who
8 furnished such security, and the balance shall be paid into the
9 State Treasury.

10 The Department shall discharge any surety and shall release
11 and return any security deposited, assigned, pledged or
12 otherwise provided to it by a taxpayer under this Section
13 within 30 days after:

14 (1) such taxpayer becomes a Prior Continuous
15 Compliance taxpayer; or

16 (2) such taxpayer has ceased to collect receipts on
17 which he is required to remit tax to the Department, has
18 filed a final tax return, and has paid to the Department an
19 amount sufficient to discharge his remaining tax
20 liability, as determined by the Department, under this Act
21 and under every other State tax law or municipal or county
22 tax ordinance or resolution under which the certificate of
23 registration issued under this Act permits the registrant
24 to engage in business without registering separately under
25 such other law, ordinance or resolution. The Department
26 shall make a final determination of the taxpayer's

1 outstanding tax liability as expeditiously as possible
2 after his final tax return has been filed; if the
3 Department cannot make such final determination within 45
4 days after receiving the final tax return, within such
5 period it shall so notify the taxpayer, stating its reasons
6 therefor.

7 (Source: P.A. 90-491, eff. 1-1-98; 91-357, eff. 7-29-99.)

8 Section 10. The Cigarette Tax Act is amended by changing
9 Section 4 as follows:

10 (35 ILCS 130/4) (from Ch. 120, par. 453.4)

11 Sec. 4. Distributor's license. No person may engage in
12 business as a distributor of cigarettes in this State within
13 the meaning of the first 2 definitions of distributor in
14 Section 1 of this Act without first having obtained a license
15 therefor from the Department. Application for license shall be
16 made to the Department in form as furnished and prescribed by
17 the Department. Each applicant for a license under this Section
18 shall furnish to the Department on the form signed and verified
19 by the applicant the following information:

20 (a) The name and address of the applicant;

21 (b) The address of the location at which the applicant
22 proposes to engage in business as a distributor of
23 cigarettes in this State;

24 (c) Such other additional information as the

1 Department may lawfully require by its rules and
2 regulations.

3 The annual license fee payable to the Department for each
4 distributor's license shall be \$250. The purpose of such annual
5 license fee is to defray the cost, to the Department, of
6 serializing cigarette tax stamps. Each applicant for license
7 shall pay such fee to the Department at the time of submitting
8 his application for license to the Department.

9 The Department may require every ~~Every~~ applicant who is
10 required to procure a distributor's license shall file with his
11 application a joint and several bond. If required, such ~~Such~~
12 bond shall be executed to the Department of Revenue, with good
13 and sufficient surety or sureties residing or licensed to do
14 business within the State of Illinois, in the amount of \$2,500,
15 conditioned upon the true and faithful compliance by the
16 licensee with all of the provisions of this Act. If required,
17 such ~~Such~~ bond, or a reissue thereof, or a substitute therefor,
18 shall be kept in effect during the entire period covered by the
19 license. A separate application for license shall be made, a
20 separate annual license fee paid, and, if required, a separate
21 bond filed, for each place of business at which a person who is
22 required to procure a distributor's license under this Section
23 proposes to engage in business as a distributor in Illinois
24 under this Act. The Department may waive the bond requirement
25 if it determines that the administrative costs to the State
26 associated with administering and enforcing the bond

1 provisions of this Section exceed the amount that is likely to
2 be recovered from the bonds.

3 The following are ineligible to receive a distributor's
4 license under this Act:

5 (1) a person who is not of good character and
6 reputation in the community in which he resides;

7 (2) a person who has been convicted of a felony
8 under any Federal or State law, if the Department,
9 after investigation and a hearing, if requested by the
10 applicant, determines that such person has not been
11 sufficiently rehabilitated to warrant the public
12 trust;

13 (3) a corporation, if any officer, manager or
14 director thereof, or any stockholder or stockholders
15 owning in the aggregate more than 5% of the stock of
16 such corporation, would not be eligible to receive a
17 license under this Act for any reason.

18 The Department, upon receipt of an application, license fee
19 and, if required, bond in proper form, from a person who is
20 eligible to receive a distributor's license under this Act,
21 shall issue to such applicant a license in form as prescribed
22 by the Department, which license shall permit the applicant to
23 which it is issued to engage in business as a distributor at
24 the place shown in his application. All licenses issued by the
25 Department under this Act shall be valid for not to exceed one
26 year after issuance unless sooner revoked, canceled or

1 suspended as provided in this Act. No license issued under this
2 Act is transferable or assignable. Such license shall be
3 conspicuously displayed in the place of business conducted by
4 the licensee in Illinois under such license.

5 Any person aggrieved by any decision of the Department
6 under this Section may, within 20 days after notice of the
7 decision, protest and request a hearing. Upon receiving a
8 request for a hearing, the Department shall give notice to the
9 person requesting the hearing of the time and place fixed for
10 the hearing and shall hold a hearing in conformity with the
11 provisions of this Act and then issue its final administrative
12 decision in the matter to that person. In the absence of a
13 protest and request for a hearing within 20 days, the
14 Department's decision shall become final without any further
15 determination being made or notice given.

16 (Source: P.A. 91-901, eff. 1-1-01; 92-322, eff. 1-1-02.)

17 Section 15. The Cigarette Use Tax Act is amended by
18 changing Section 4 as follows:

19 (35 ILCS 135/4) (from Ch. 120, par. 453.34)

20 Sec. 4. Distributor's license. A distributor maintaining a
21 place of business in this State, if required to procure a
22 license or allowed to obtain a permit as a distributor under
23 the Cigarette Tax Act, need not obtain an additional license or
24 permit under this Act, but shall be deemed to be sufficiently

1 licensed or registered by virtue of his being licensed or
2 registered under the Cigarette Tax Act.

3 Every distributor maintaining a place of business in this
4 State, if not required to procure a license or allowed to
5 obtain a permit as a distributor under the Cigarette Tax Act,
6 shall make a verified application to the Department (upon a
7 form prescribed and furnished by the Department) for a license
8 to act as a distributor under this Act. In completing such
9 application, the applicant shall furnish such information as
10 the Department may reasonably require.

11 The annual license fee payable to the Department for each
12 distributor's license shall be \$250. The purpose of such annual
13 license fee is to defray the cost, to the Department, of
14 serializing cigarette tax stamps. The applicant for license
15 shall pay such fee to the Department at the time of submitting
16 the application for license to the Department.

17 The Department may require such ~~Such~~ applicant to ~~shall~~
18 file, with his application, a joint and several bond. If
19 required, such ~~Such~~ bond shall be executed to the Department of
20 Revenue, with good and sufficient surety or sureties residing
21 or licensed to do business within the State of Illinois, in the
22 amount of \$2,500, conditioned upon the true and faithful
23 compliance by the licensee with all of the provisions of this
24 Act. If required, such ~~Such~~ bond, or a reissue thereof, or a
25 substitute therefor, shall be kept in effect during the entire
26 period covered by the license. A separate application for

1 license shall be made, a separate annual license fee paid, and,
2 if required, a separate bond filed, for each place of business
3 at or from which the applicant proposes to act as a distributor
4 under this Act and for which the applicant is not required to
5 procure a license or allowed to obtain a permit as a
6 distributor under the Cigarette Tax Act. The Department may
7 waive the bond requirement if it determines that the
8 administrative costs to the State associated with
9 administering and enforcing the bond provisions of this Section
10 exceed the amount that is likely to be recovered from the
11 bonds.

12 The following are ineligible to receive a distributor's
13 license under this Act:

14 (1) a person who is not of good character and
15 reputation in the community in which he resides;

16 (2) a person who has been convicted of a felony under
17 any Federal or State law, if the Department, after
18 investigation and a hearing, if requested by the applicant,
19 determines that such person has not been sufficiently
20 rehabilitated to warrant the public trust;

21 (3) a corporation, if any officer, manager or director
22 thereof, or any stockholder or stockholders owning in the
23 aggregate more than 5% of the stock of such corporation,
24 would not be eligible to receive a license hereunder for
25 any reason.

26 Upon approval of such application and, if required, bond

1 and payment of the required annual license fee, the Department
2 shall issue a license to the applicant. Such license shall
3 permit the applicant to engage in business as a distributor at
4 or from the place shown in his application. All licenses issued
5 by the Department under this Act shall be valid for not to
6 exceed one year after issuance unless sooner revoked, canceled
7 or suspended as in this Act provided. No license issued under
8 this Act is transferable or assignable. Such license shall be
9 conspicuously displayed at the place of business for which it
10 is issued.

11 Any person aggrieved by any decision of the Department
12 under this Section may, within 20 days after notice of the
13 decision, protest and request a hearing. Upon receiving a
14 request for a hearing, the Department shall give notice to the
15 person requesting the hearing of the time and place fixed for
16 the hearing and shall hold a hearing in conformity with the
17 provisions of this Act and then issue its final administrative
18 decision in the matter to that person. In the absence of a
19 protest and request for a hearing within 20 days, the
20 Department's decision shall become final without any further
21 determination being made or notice given.

22 (Source: P.A. 91-901, eff. 1-1-01; 92-322, eff. 1-1-02.)

23 Section 20. The Liquor Control Act of 1934 is amended by
24 changing Section 8-2 as follows:

1 (235 ILCS 5/8-2) (from Ch. 43, par. 159)

2 Sec. 8-2. It is the duty of each manufacturer with respect
3 to alcoholic liquor produced or imported by such manufacturer,
4 or purchased tax-free by such manufacturer from another
5 manufacturer or importing distributor, and of each importing
6 distributor as to alcoholic liquor purchased by such importing
7 distributor from foreign importers or from anyone from any
8 point in the United States outside of this State or purchased
9 tax-free from another manufacturer or importing distributor,
10 to pay the tax imposed by Section 8-1 to the Department of
11 Revenue on or before the 15th day of the calendar month
12 following the calendar month in which such alcoholic liquor is
13 sold or used by such manufacturer or by such importing
14 distributor other than in an authorized tax-free manner or to
15 pay that tax electronically as provided in this Section.

16 Each manufacturer and each importing distributor shall
17 make payment under one of the following methods: (1) on or
18 before the 15th day of each calendar month, file in person or
19 by United States first-class mail, postage pre-paid, with the
20 Department of Revenue, on forms prescribed and furnished by the
21 Department, a report in writing in such form as may be required
22 by the Department in order to compute, and assure the accuracy
23 of, the tax due on all taxable sales and uses of alcoholic
24 liquor occurring during the preceding month. Payment of the tax
25 in the amount disclosed by the report shall accompany the
26 report or, (2) on or before the 15th day of each calendar

1 month, electronically file with the Department of Revenue, on
2 forms prescribed and furnished by the Department, an electronic
3 report in such form as may be required by the Department in
4 order to compute, and assure the accuracy of, the tax due on
5 all taxable sales and uses of alcoholic liquor occurring during
6 the preceding month. An electronic payment of the tax in the
7 amount disclosed by the report shall accompany the report. A
8 manufacturer or distributor who files an electronic report and
9 electronically pays the tax imposed pursuant to Section 8-1 to
10 the Department of Revenue on or before the 15th day of the
11 calendar month following the calendar month in which such
12 alcoholic liquor is sold or used by that manufacturer or
13 importing distributor other than in an authorized tax-free
14 manner shall pay to the Department the amount of the tax
15 imposed pursuant to Section 8-1, less a discount which is
16 allowed to reimburse the manufacturer or importing distributor
17 for the expenses incurred in keeping and maintaining records,
18 preparing and filing the electronic returns, remitting the tax,
19 and supplying data to the Department upon request.

20 The discount shall be in an amount as follows:

21 (1) For original returns due on or after January 1,
22 2003 through September 30, 2003, the discount shall be
23 1.75% or \$1,250 per return, whichever is less;

24 (2) For original returns due on or after October 1,
25 2003 through September 30, 2004, the discount shall be 2%
26 or \$3,000 per return, whichever is less; and

1 (3) For original returns due on or after October 1,
2 2004, the discount shall be 2% or \$2,000 per return,
3 whichever is less.

4 The Department may, if it deems it necessary in order to
5 insure the payment of the tax imposed by this Article, require
6 returns to be made more frequently than and covering periods of
7 less than a month. Such return shall contain such further
8 information as the Department may reasonably require.

9 It shall be presumed that all alcoholic liquors acquired or
10 made by any importing distributor or manufacturer have been
11 sold or used by him in this State and are the basis for the tax
12 imposed by this Article unless proven, to the satisfaction of
13 the Department, that such alcoholic liquors are (1) still in
14 the possession of such importing distributor or manufacturer,
15 or (2) prior to the termination of possession have been lost by
16 theft or through unintentional destruction, or (3) that such
17 alcoholic liquors are otherwise exempt from taxation under this
18 Act.

19 The Department may require any foreign importer to file
20 monthly information returns, by the 15th day of the month
21 following the month which any such return covers, if the
22 Department determines this to be necessary to the proper
23 performance of the Department's functions and duties under this
24 Act. Such return shall contain such information as the
25 Department may reasonably require.

26 The Department may require every ~~Every~~ manufacturer and

1 importing distributor ~~to shall~~ also file, with the Department,
2 a bond in an amount ~~not less than \$1,000 and~~ not to exceed
3 \$100,000 on a form to be approved by, and with a surety or
4 sureties satisfactory to, the Department. If required, such
5 ~~Such~~ bond shall be conditioned upon the manufacturer or
6 importing distributor paying to the Department all monies
7 becoming due from such manufacturer or importing distributor
8 under this Article. In making a determination as to whether to
9 require a bond and the amount at which to ~~The Department shall~~
10 fix the penalty of such bond in each case, the Department shall
11 take ~~taking~~ into consideration the amount of alcoholic liquor
12 expected to be sold and used by such manufacturer or importing
13 distributor, and, if a bond requirement is imposed, the penalty
14 fixed by the Department shall be sufficient, in the
15 Department's opinion, to protect the State of Illinois against
16 failure to pay any amount due under this Article, but the
17 amount of the penalty fixed by the Department shall not exceed
18 twice the amount of tax liability of a monthly return, ~~nor~~
19 ~~shall the amount of such penalty be less than \$1,000.~~ The
20 Department may waive the bond requirement if it determines that
21 the administrative costs to the State associated with
22 administering and enforcing the bond provisions of this Section
23 exceed the amount that is likely to be recovered from the
24 bonds. The Department shall notify the Commission of the
25 Department's approval or disapproval of any such
26 manufacturer's or importing distributor's bond, or of the

1 termination or cancellation of any such bond, or of the
2 Department's direction to a manufacturer or importing
3 distributor that he must file additional bond in order to
4 comply with this Section. The Commission shall not issue a
5 license to any applicant for a manufacturer's or importing
6 distributor's license unless the Commission has received a
7 notification from the Department showing that such applicant
8 has filed a satisfactory bond with the Department hereunder and
9 that such bond has been approved by the Department or that such
10 bond requirement has been waived. Failure by any licensed
11 manufacturer or importing distributor to keep a satisfactory
12 bond in effect with the Department, if required, or to furnish
13 additional bond to the Department, when required hereunder by
14 the Department to do so, shall be grounds for the revocation or
15 suspension of such manufacturer's or importing distributor's
16 license by the Commission. If a manufacturer or importing
17 distributor fails to pay any amount due under this Article, his
18 bond with the Department shall be deemed forfeited, and the
19 Department may institute a suit in its own name on such bond.

20 After notice and opportunity for a hearing the State
21 Commission may revoke or suspend the license of any
22 manufacturer or importing distributor who fails to comply with
23 the provisions of this Section. Notice of such hearing and the
24 time and place thereof shall be in writing and shall contain a
25 statement of the charges against the licensee. Such notice may
26 be given by United States registered or certified mail with

1 return receipt requested, addressed to the person concerned at
2 his last known address and shall be given not less than 7 days
3 prior to the date fixed for the hearing. An order revoking or
4 suspending a license under the provisions of this Section may
5 be reviewed in the manner provided in Section 7-10 of this Act.
6 No new license shall be granted to a person whose license has
7 been revoked for a violation of this Section or, in case of
8 suspension, shall such suspension be terminated until he has
9 paid to the Department all taxes and penalties which he owes
10 the State under the provisions of this Act.

11 Every manufacturer or importing distributor who has, as
12 verified by the Department, continuously complied with the
13 conditions of the bond under this Act for a period of 2 years
14 shall be considered to be a prior continuous compliance
15 taxpayer. In determining the consecutive period of time for
16 qualification as a prior continuous compliance taxpayer, any
17 consecutive period of time of qualifying compliance
18 immediately prior to the effective date of this amendatory Act
19 of 1987 shall be credited to any manufacturer or importing
20 distributor.

21 Every prior continuous compliance taxpayer shall be exempt
22 from the bond requirements of this Act until the Department has
23 determined the taxpayer to be delinquent in the filing of any
24 return or deficient in the payment of any tax under this Act.
25 Any taxpayer who fails to pay an admitted or established
26 liability under this Act may also be required to post bond or

1 other acceptable security with the Department guaranteeing the
2 payment of such admitted or established liability.

3 The Department shall discharge any surety and shall release
4 and return any bond or security deposit assigned, pledged or
5 otherwise provided to it by a taxpayer under this Section
6 within 30 days after: (1) such taxpayer becomes a prior
7 continuous compliance taxpayer; or (2) such taxpayer has ceased
8 to collect receipts on which he is required to remit tax to the
9 Department, has filed a final tax return, and has paid to the
10 Department an amount sufficient to discharge his remaining tax
11 liability as determined by the Department under this Act.
12 (Source: P.A. 92-393, eff. 1-1-03; 93-22, eff. 6-20-03.)

13 Section 99. Effective date. This Act takes effect upon
14 becoming law.